

REMARKS

In a final Office Action mailed November 4, 2005, the United States Patent and Trademark Office (hereinafter "the Office") rejected Claims 1-6, 10, 12, 16, 20, and 25-29 under 35 U.S.C. § 102(b) as being anticipated by Ballantyne et al. (U.S. Patent No. 5,867,821, hereinafter "Ballantyne"). Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Ballantyne. Claim 9 was rejected as being unpatentable in view of Ballantyne and Causey III et al. (U.S. Patent No. 6,558,320, hereinafter "Causey "). Claims 11, 13, 18, 19, 30, and 31 were rejected as being unpatentable in view of Ballantyne and Wolff et al. (U.S. Patent No. 5,671,282, hereinafter "Wolff"). Claims 14, 15, 32, and 33 were rejected as being unpatentable in view of Ballantyne, Wolff, and Maes et al. (U.S. Patent No. 6,016,476, hereinafter "Maes"). Claims 17 and 34 were rejected as being unpatentable in view of Ballantyne and Aghili et al. (U.S. Patent No. 6,289,316, hereinafter "Aghili"). Claims 20, 22-24, 35, and 36 were rejected as being unpatentable in view of Ballantyne and Basso Jr. et al. (U.S. Patent No. 6,131,090, hereinafter "Basso"). Claim 37, previously rejected as being unpatentable in view of Ballantyne, Basso, and Maes, was rejected in the final Office Action without a specific explanation.

Applicants have carefully considered the cited references and request reconsideration of the application in view of the foregoing amendments and the following remarks. Claims 1-20 and 22-37 are pending in the present application. In addition to demonstrating the patentability of the independent claims, applicants submit that the dependent claims are also patentable over the cited art. For brief descriptions of the Ballantyne, Causey, Wolff, Maes, Aghili, and Basso patents, reference may be made to applicants' earlier response submitted August 8, 2005.

Claims 1-4 Are Patentable Over the Prior Art

Applicants submit that the cited and applied references do not teach all of the elements recited in Claims 1-14. For example, with respect to Claim 1, applicants submit that none of the

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references teaches a "hand-held mobile field device configured to directly and wirelessly communicate with a plurality of patient medical monitoring devices and directly receive patient monitored medical data therefrom." The Office has contended that the PDA of Ballantyne is capable to provide indirect wireless communication with the PCS of Ballantyne, but that contention does not address the specific features claimed in amended Claim 1. Moreover, the PCS of Ballantyne is not a hand-held mobile field device, nor can the Office liken the PCS of Ballantyne with patient monitoring devices. In view of the limited disclosure of the prior art, particularly as acknowledged by the Office, applicants submit that Claim 1 is not anticipated by Ballantyne and should be allowed.

Applicants further contend that the claims dependent on Claim 1 are patentable, both for their dependence on an allowable base claim and for the additional subject matter they recite. Reconsideration and allowance of Claims 1-4 is requested.

Claim 5 Is Patentable Over the Prior Art

With respect to Claim 5, applicants submit that none of the applied and cited references teaches a "network including at least one mobile field device configured to directly and wirelessly communicate with a plurality of patient medical monitoring devices, the network being configured to aggregate and to make available to the mobile field unit a combination of manual, automated, fixed continuous and mobile patient monitoring and assessments." As noted above with Claim 1, the system of Ballantyne uses a PDA, but the PDA does not directly and wirelessly communicate with a plurality of patient medical monitoring devices. For at least this reason, the disclosure of Ballantyne does not support a *prima facie* rejection of Claim 5 based on anticipation.

Claims 6-11 Are Patentable Over the Prior Art

With regard to Claim 6, applicants submit that the cited references do not teach a "network including at least one mobile field device configured to directly and wirelessly

communicate with a plurality of patient medical monitoring devices, wherein the network is electronically connected to one or more databases maintained by a hospital to communicate data to and from the mobile field device and the one or more databases." The PCS of Ballantyne interfaces with health care monitoring equipment but the PCS does not constitute a mobile field device, and Ballantyne's PDA is not configured to directly and wirelessly communicate with a plurality of patient medical monitoring devices. Therefore, absent a basis for anticipation, the Office reliance upon Ballantyne to reject Claim 6 is unavailing. The rejection should be withdrawn.

Applicants further submit that the claims dependent on Claim 6 are patentable, both for their dependence on an allowable base claim and for the additional subject matter they recite. Reconsideration and allowance of Claims 6-11 is requested.

Claims 12-17 Are Patentable Over the Prior Art

Claim 12 is directed to a "network including at least one mobile field device configured to provide communication with a plurality of patient medical monitoring devices, the network further comprising a central repository containing medical information and a plurality of subsystem databases linked to the central repository via at least one of encryption software or secure hardware that tags transmissions and retrievals, the network also being configured to communicatively link to wearable bracelets, each of which contain a microchip capable of being sensed electronically for identifying and tracking the location of individuals wearing the bracelets." Ballantyne does not teach a mobile field device that is configured to provide communication with a plurality of patient medical monitoring devices. The PCS of Ballantyne is not a mobile field device. Moreover, Ballantyne does not teach a network also being configured to communicatively link to wearable bracelets, each of which contain a microchip capable of being sensed electronically for identifying and tracking the location of individuals wearing the bracelets. See, e.g., pages 13 and 14 of the present application for a description of potential

embodiments. For at least these reasons, the Office cannot state a *prima facie* case of anticipation and the rejection of Claim 12 should be withdrawn.

Applicants further contend that Claims 13-17, which depend from Claim 12, are patentable for their dependence on an allowable base claim and for the additional subject matter recited therein. Reconsideration and allowance of Claims 12-17 is requested.

Claims 18-19 Are Patentable Over the Prior Art

Claim 18, as amended herein, is directed to a "network including at least one mobile field device configured to provide communication with a plurality of patient medical monitoring devices, the network configured to link a prescription drug order processing system with prescription data and secure patient documentation and health assessment data, wherein the at least one mobile field device comprises hardware device drivers installed thereon to communicate directly with the plurality of patient medical monitoring devices." Applicants submit that the prior art, in particular Ballantyne and Wolff, does not teach or suggest all of the features recited in Claim 18. Accordingly, Claim 18 should be allowed. Claim 19, which depends from allowable Claim 18 and recites additional subject matter, is also in patentable condition.

Claims 20-24 Are Patentable Over the Prior Art

Applicants request reconsideration and allowance of Claims 20-24. None of the cited and applied references teaches a network as claimed in Claim 20, particularly a network "configured to sequentially control said electronic access with respect to a patient's data so that at least a first predetermined entity must access the patient's data before a second predetermined entity is permitted access." Neither Ballantyne nor Basso, alone or in combination as cited by the Office, teaches this element of Claim 20. The concept of allowing staff to access a patient's medical information in a timely manner (e.g., allowing a head of emergency medical services to have immediate access), as discussed on pages 4 and 8 of the Office Action, is not relevant to Claim

20. It is not a matter of someone having priority to jump ahead of another to have immediate access to a patient's data; rather, it is a matter of controlling access to the patient's data "so that at least a first predetermined entity must access the patient's data before a second predetermined entity is permitted access." Applicants submit that this element is not shown or suggested by Ballantyne or Basso, or by any of the other cited art. The rejection of Claim 20 based on Ballantyne and Basso should be withdrawn and the claim allowed. Additionally, the Claims 21-24 should be allowed, both for their dependence on allowable Claim 20 and for the additional subject matter they recite.

Claims 25-34 Are Patentable Over the Prior Art

Applicants are unable to find, and the Office has failed to show, where the applied and cited references, alone or in combination, teach a "method for communicating medical data comprising communicating medical data directly and wirelessly to a hand-held mobile field unit from a plurality of patient medical monitoring devices, and communicating the patient monitored medical data received by the hand-held mobile field unit to a medical database via a secure network," as recited in Claim 25. The health care monitoring equipment of Ballantyne does not directly and wirelessly communicate with the PDA. To the extent health care monitoring equipment of Ballantyne communicates with the PCS, applicants note that the PCS is not a hand-held mobile field unit. Claim 25 is not anticipated by Ballantyne and should be allowed.

Claims 35-37 Are Patentable Over the Prior Art

Lastly, Claim 35 is directed a "method for controlling access to a medical database comprising: defining an access protocol for entities accessing patient data, including at least a first entity having initial access to the patient data; permitting access to the patient data by the at least first entity; and conditioning each further access to the patient data by additional entities upon prior access by at least one predetermined prior entity." Applicants are unable to find, and

the Office has failed to show, where the applied and cited references teach the foregoing elements.

Recognizing that Ballantyne failed to teach all of the recited elements, the Office sought to combine Ballantyne with Basso and opined that the claim limitations can be found at Col. 9, lines 44-46, and Col. 14, lines 42-49, of Basso:

In other embodiments access session information can include information such as ID(H), ID(P), or an access sequence number which uniquely identifies each access session.

...

For example, the head of an emergency medical service might have authority to access such sensitive, critical data in the event of a system failure while other medical personal [*sic*] could only access such data with an access code issued by a Trusted Authority, but without needing immediate access to the Trusted Authority. Of course, non-sensitive information, such as blood type, can simply be printed on the face of the card.

As discussed above with respect to Claim 20, it is not apparent how Basso cures the deficiency of Ballantyne and discloses "conditioning each further access to the patient data by additional entities upon prior access by at least one predetermined prior entity," as claimed in Claim 35.

In the example provided by Basso, if other medical personnel were to obtain an access code issued by the Trusted Authority, the medical personnel could access, at the same time as the head of the emergency medical service, sensitive, critical data in the event of a system failure. There is no control that requires a first entity to access a patient's data before a second entity is permitted access. Basso describes nothing more than a conventional authentication mechanism. Given the defects of Ballantyne and Basso, applicants submit that the Office has not stated a *prima facie* basis for rejecting Claim 25 for obviousness.

CONCLUSION

Independent Claims 1, 5, 6, 12, 18, 20, 25, and 35, and their respective dependent claims, are patentably distinguishable over the cited and applied references. The cited references do not support a *prima facie* case of anticipation or obviousness; therefore, the claim rejections should be withdrawn. Reconsideration and allowance of Claims 1-20 and 22-37 is respectfully requested. If, prior to allowance of the application, additional issues are identified and need resolution, the Examiner is invited to contact the undersigned counsel at the telephone number indicated below.

Respectfully submitted,

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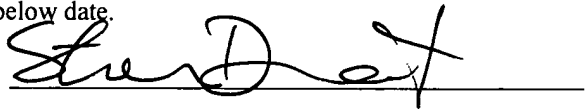
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